



January 23, 2013

**VIA EMAIL**

Scott Hansen  
EPA Project Coordinator  
U.S. Environmental Protection Agency  
Region 5  
77 West Jackson Blvd. (SR-6J)  
Chicago, IL 60604-3590

Re: Ashland Lakefront Site - Sediment Data Gap Analysis

Dear Mr. Hansen:

This letter responds to your January 11, 2013 request of Northern States Power Company, a Wisconsin corporation ("NSPW"), to perform a data gap analysis consisting of eighteen additional near-shore soil borings over the bay that fully penetrate the depth of the Miller Creek Formation/Aquitard ("Aquitard"), and to conduct appropriate laboratory tests to measure the undrained shear strength of such soils.<sup>1</sup> While it is not immediately clear to the company how collecting further data will resolve the safety concerns posed by the heterogeneity and "weak" areas already observed at the site, the company appreciates the attention that EPA is devoting to this issue, and is willing to discuss the possibility of further sampling once we have had an opportunity to review the forthcoming analysis prepared by the U.S. Army Corps. of Engineers ("ACOE") and the results of the recent sampling along the shoreline, as explained in detail below.

NSPW looks forward to discussing the preliminary issues below at your convenience.

**A. EPA Should Evaluate The Results Of The Borings Recently Conducted In Connection With The On-Shore Remedy Before Determining Whether Further Sampling Is Needed**

As a practical matter, the company believes that it would be useful for the agencies and NSPW to review all recent sampling results before making a determination that additional sampling is warranted, or developing a new sampling plan. For example, the U.S. Environmental Protection

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<sup>1</sup> In light of EPA's position that there is not enough data in the near-shore area of Chequamegon Bay to fully evaluate whether the hybrid remedy can be safely and effectively implemented, NSPW would like to confirm that NSPW's October 15, 2012 submissions, as well as all recent sampling, are now a part of the administrative record concerning the sediment remedy, and that any additional data gap analysis that is ultimately conducted would likewise be included in the record.

Agency ("EPA") recently required NSPW to collect additional boring data in connection with, but beyond the scope of, the on-shore remedy at the site, purportedly to assist with sediment remedy issues. The final results of those efforts are not yet available. Although the draft boring logs have already been made available to the agencies, the results of various tests remain pending. The company believes that it would be prudent to fully understand those results before determining the necessity and scope of further testing, if any, particularly to the extent that these new borings confirm significant heterogeneity in the thickness and properties of site sediments.

#### **B. ACOE Report and Meeting**

Before we can determine whether additional data should be collected and what data may be lacking, we need to review ACOE's assessment. We respectfully request the opportunity to have a technical meeting with the ACOE and agency representatives to discuss the ACOE's analysis, the new data collected as described above, and any concerns the parties may have regarding potential scope of work for additional sampling.

#### **C. The Proposed Sampling May Not Be Completed Safely During Late Winter**

When we last met on January 7, 2013, NSPW had assumed that taking additional borings through the ice would be technically feasible, if further sampling were determined necessary by NSPW and the agencies. This assumption was based upon the success achieved in 2011 in boring through the ice. However, NSPW has since been advised that work now being proposed by EPA poses significantly greater environmental and safety risks and technical challenges than the work conducted in 2011.

Following our meeting on January 7, 2013, NSPW contacted two local drilling contractors for cost estimates to complete the work proposed by EPA, and both firms declined to bid, citing serious safety concerns with conducting offshore borings that fully penetrate the Aquitard through the ice in late winter.

The first firm we contacted anticipated that a 14-ton (or even larger) rig would be needed to fully penetrate the offshore Aquitard, and expressed concern that the weight and vibration of such a rig—coupled with the weight of the other equipment and dense materials needed to double case the borings and counter the artesian pressure—would risk cracking the ice. The drill rig used in 2011 to install the relatively shallow borings weighed only 4 ton. This contractor further informed us that fracturing the ice would pose serious risks to worker safety, and could increase the potential for equipment loss, and for failure to adequately plug the Aquitard, once penetrated.

The second firm we contacted raised similar concerns, and likewise advised that attempting the proposed work through the ice in February or March would be too risky, both due to safety concerns and the risk of failing to adequately seal the Aquitard, following sampling.

While NSPW believes it remains feasible to conduct the proposed work in the spring or summer from a barge, the company now has concerns about the viability of collecting the proposed samples through the ice. If WDNR has been able to successfully locate a drilling contractor willing to complete the work through the ice, NSPW is open to further discussions about that possibility,

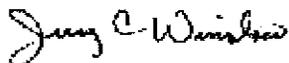
but to date, NSPW has not yet identified an experienced contractor willing to perform this type of work through the ice.

**D. Legal Framework For Performing This Work**

Currently there is no legal document (e.g., an AOC) in place to allow for the proposed sediment investigation. We think additional discussions are needed between the agencies and NSPW to discuss what mechanism we would operate under to perform this additional work.

Thank you in advance for your attention to these important matters. NSPW appreciates the agencies' thoughtful consideration of these issues, and looks forward to discussing the possibility and scope of additional sampling (including what legal form of document EPA envisions governing such work), once we have had an opportunity to review the pending ACOE report.

Sincerely,



Jerry Winslow

cc: Kristen Carney, NSPW  
Kelly Richardson, Latham & Watkins LLP  
Jamie Dunn, WDNR  
Lacey Cochart, WDNR  
Thomas Benson, U.S. DOJ

